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the defendant by warranty deed. None of these deeds had referred to the right to take water, nor did the defendant have knowledge in fact of the pipe. Some years later she cut the pipe. In an action for damages, *held*, for the defendant. *Steinbeck v. Helena* (App. Div. 2nd Dept. 1921) 185 N. Y. Supp. 788.

No easement will be implied in favor of a grantor except where the burden claimed is apparent and strictly necessary. *Wells v. Garbutt* (1892) 132 N. Y. 430, 30 N. E. 978; *Butterworth v. Crawford* (1871) 46 N. Y. 349; *Grotenstein v. Kaplan* (1915) 90 Misc. 403, 153 N. Y. Supp. 614. In the instant case, however, this question does not arise. When the life estate was severed from the farm by the devise to the widow, an easement by implication arose in its favor. *Paine v. Chandler* (1892) 134 N. Y. 385, 32 N. E. 18; *Brakeley v. Sharp* (1854) 10 N. J. Eq. 206. The existence of the water-pipe must have been known, and its use contemplated by the deviser, its constructor. Implied easements rest upon the implied intent gathered from the circumstances surrounding the conveyance. See *Wells v. Garbutt*, *supra*, 437. Upon the death of the widow the house and lot passed to the sons as tenants in common, one of whom, M, was also the owner of the servient tenement. Although M could not have an easement against himself, it does not seem that the plaintiff's right would be thereby impaired. And so the question is squarely presented whether a sale of the servient tenement may cut off an easement. If the easement be apparent and continuous, this question must be answered in the negative. *Havens v. Klein* (N. Y. 1875) 51 How. Pr. 82. An easement is apparent when it may be discovered upon reasonable inspection. See *Lampman v. Milks* (1860) 21 N. Y. 505, 516. In the instant case it is not clear whether or not the water-pipe would fall within this rule. This being so, the conclusion of the court may perhaps be justified on the ground that it is good policy to discourage the implication of easement to the surprise of purchasers without notice, and to demand the recordation of servitudes. *Cf. Taylor v. Millard* (1890) 118 N. Y. 244, 23 N. E. 376; *Tiffany, Real Property* (2nd ed. 1920) §380.

ESTOPPEL—MORTGAGES—DEFICIENCY JUDGMENT.—The plaintiff held a \$60,000 mortgage on the defendant's land in Connecticut, where the practice is strict foreclosure. The defendant signed a stipulation agreeing to a foreclosure by sale in reliance upon the plaintiff's representation that she would not hold him for a deficiency. The land, valued by official appraisers at \$111,600, was sold to the plaintiff for \$55,000 and a deficiency decree entered. In an action in New York on that decree, *held*, the plaintiff was estopped to enforce it. *Witherell v. Kelly* (App. Div. 2nd Dept. 1921) 187 N. Y. Supp. 43.

The doctrine of estoppel by misrepresentation requires that there be a misrepresentation of a present or past fact, as opposed to a promise *de futuro*. *Jorden v. Money* (1854) 5 H. L. C. 185; *White v. Ashton* (1873) 51 N. Y. 280; see *Maddison v. Alderson* (1883) L. R. 8 A. C. 467, 473. A misrepresentation of intention clearly works an estoppel. *Cf. Edgington v. Fitzmaurice* (1885) L. R. 29 Ch. Div. 459. Some courts have recognized what purports to be an exception to the general rule, namely, where one represents that he abandons an existing right. *Faxon v. Faxon* (1873) 28 Mich. 159; *White v. Walker* (1863) 31 Ill. 422; *contra, Jorden v. Money*, *supra*. The court in the principal case follows the so-called exception. But, stripped of the court's reasoning, the decision does nothing more than decide that a change of position in reliance upon a promise where the acts done were to be anticipated by the promisor will support a promise in equity. The principal case, in reality, is an extension of the doctrine implicit in the cases which hold that a gift of land will be enforced specifically where the donee has made expensive improvements to the knowledge of the promisor. *Freeman v. Freeman* (1870) 43 N. Y. 34; *Messiah Home for Children v. Rogers* (1914) 212 N. Y. 315, 106 N. E. 59. The

result reached is perfectly just. There seems to be no reason, aside from possibly an historical one, why one should not be liable for the reasonable results of one's promises as well as for the reasonable results of one's acts.

HIGHWAYS—DEDICATION—PRESCRIPTION.—The defendant landowner and a ferry owner entered into a contract whereby the defendant promised the latter to permit the public to use a strip of his land for travel to the ferry and the ferry owner promised to give the defendant free passage on the ferry. The contract was fulfilled for more than the statutory period for the acquisition by the public of a highway when the defendant and the ferry owner became involved in a controversy concerning compliance with the terms and the landowner set up obstructions in the road. Thereupon he was indicted for nuisance. *Held*, two judges dissenting, conviction affirmed. *McCracken v. State* (Ark. 1921) 227 S. W. 8.

The public cannot acquire a highway by prescription, for only a natural or artificial person is capable of being a grantee,—a necessary concomitant of the acquisition of any rights by prescription, which involves the theory of the lost grant. It has therefore been suggested that what the courts mean is that long continued adverse user raises a conclusive presumption of an intention to dedicate. (1905) 5 COLUMBIA LAW REV. 608. Furthermore, there is nothing unusual in holding that a transaction between two private persons may be evidence that one of them intends to dedicate a strip of land to the public as a street; and, if such dedication be accepted by the public, its rights of passage and repassage are complete. *Board of Commrs. v. Freehold, etc. Co.* (1907) 74 N. J. L. 480, 65 Atl. 1035. The conclusion in the instant case may likewise be sustained by construing the defendant's promise as equivalent to a promise to dedicate, which of course would involve an intention so to do. User by the public would complete dedication. The defendant contended that the members of the public were mere licensees and that the license was properly withdrawn upon failure of consideration. But as the court points out, to prevent the public from acquiring a highway, the defendant should have maintained his control over the way by some overt act which would indicate the use to have been merely a permissive one.

INJUNCTIONS—INTERFERENCE WITH CONTRACTUAL RELATIONS.—The E. Co. contracted to purchase certain gear blanks exclusively from the plaintiff. In June, 1919, the defendant, without knowledge of the prior contract, entered into a contract with the E. Co. to furnish similar gear blanks. In October, 1919, the defendant learned of the contract between the plaintiff and the E. Co. Nevertheless the defendant continued to make deliveries under contracts made prior to October, 1919, and to make further contracts. *Semble*, after acquiring knowledge of the plaintiff's contract with the E. Co., the defendant was under a duty to cease doing business with the E. Co. *Westinghouse Electric & Mfg. Co. v. Diamond S. F. Co.* (D. C., Del. 1920) 268 Fed. 121.

One who intentionally and unjustifiably induces another to break his contract with a third person is liable in tort. *Schonwald v. Ragains* (1912) 32 Okla. 223, 122 Pac. 203; *Wheeler-Stenzel Co. v. American Window Glass Co.* (1909) 202 Mass. 471, 89 N. E. 28. And it is clear that no liability should attach where the defendant had no knowledge of the plaintiff's contract. In the instant case, therefore, it was no tort for the defendant to enter into his original contracts with the E. Co. The case is analogous to one in which A agrees to sell land to B and then agrees to sell it to C. If C is innocent, his conduct is not actionable. But if he subsequently acquires knowledge of B's rights or had knowledge of them from the beginning, he may be enjoined from taking a deed. So it would seem that in the case under discussion the court was right in enjoining the defendant not only from performing contracts made after